

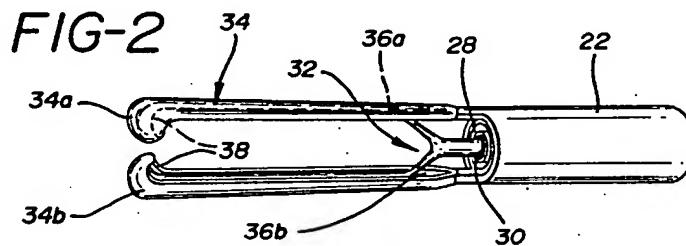
REMARKS

The above-referenced application has been reviewed in light of the Office Action mailed September 21, 2004. By the present Amendment, claim 55 has been amended, new claims 59-62 have been added, and claims 1-54 were canceled by preliminary amendment. Additionally, clean and marked-up versions of the abstract are enclosed. It is respectfully submitted that the aforementioned claims are fully supported by the specification, introduce no new subject matter, and are patentable over the prior art. Prompt and favorable consideration of the claims as amended is respectfully requested.

In the Office Action, the Examiner stated that the abstract of the disclosure required correction. By the present Amendment, clean and marked-up versions of the substitute abstract are enclosed. It is respectfully submitted that the amended abstract satisfies the requirement of MPEP § 608.01(b) and that the objection of the Office Action has been overcome.

In the Office Action, the Examiner rejected claims 55-57 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,015,249 to Nakao et al (the '249 patent). The Examiner stated that the '249 patent discloses a clip applying apparatus having a grip assembly with a barrel where the barrel includes first and second pins extending distally therefrom. However, the '249 patent does not disclose or suggest an apparatus for applying a blood vessel clip having, *inter alia*, an exit aperture where the blood vessel clip is "configured to translate through the exit aperture as the at least one blood vessel clip is moved distally through the magazine" as recited in amended claim 55.

According to the '249 patent, a staple (32) is received in a distal end of a rod member (30) that is capable of advancing the staple (32) wherein the rod member (30) is slidably disposed in an inner tubular member (28). The inner tubular member (28) receives the inner tubular member (28) and includes a forceps (34) that has spring loaded jaws (34a, 34b). A portion of the staple (32) is received in the inner tubular member (28) while legs (32a, 32b) of the staple (32) are received in grooves (36a, 36b) provided on inner surfaces of opposing forceps jaws (34a, 34b) as illustrated in FIG. 2 reproduced hereinbelow. The staple (32) of the '249 patent is stored distally of the distal end of the outer tubular member (22).



Therefore, the '249 patent does not disclose or suggest an apparatus for applying a blood vessel clip including, *inter alia*, a grip assembly, an applicator barrel, a magazine defining an exit aperture and capable of storing at least one blood vessel clip, and the blood vessel clip is "configured to translate through the exit aperture as the at least one blood vessel clip is moved distally through the magazine" as recited in amended claim 55. It is respectfully submitted that amended claim 55 is neither anticipated nor suggested by the '249 patent and the rejection of the Office Action has been overcome. Since claims 56-57 depend directly or indirectly from amended claim 55, it is respectfully submitted that the rejection of these claims has been overcome as well.

In the Office Action, the Examiner rejected claims 55-58 under 35 U.S.C. § 102(b) as being anticipated U.S. Patent No. 5,026,379 to Yoon (the '379 patent). The Examiner stated that the '379 patent discloses an apparatus having a grip assembly with an applicator barrel and the applicator barrel has an exit aperture that includes first and second pins extending distally therefrom where at least one of the pins is affixed to the applicator. However, the '379 patent does not disclose or suggest an apparatus for applying a blood vessel clip having, *inter alia*, an exit aperture where the blood vessel clip is "configured to translate through the exit aperture as the at least one blood vessel clip is moved distally through the magazine" as recited in amended claim 55.

The '379 patent discloses a device having an inner tubular member, a middle tubular member, and an outer tubular member. The inner tubular member is slidably received by the middle tubular member which is, in turn, slidably received by the outer tubular member. The inner tubular member includes forceps, while the middle tubular member includes a tissue receiving slot and is capable of receiving a single clip. The device of the '379 patent does not disclose or suggest "a magazine attached to the applicator barrel and defining an exit aperture at a distal end thereof" where the magazine is "capable of storing at least one blood vessel clip" as recited in amended claim 55. Further still, the '379 patent discloses that the clip is ejected by pushing the outer tubular member over the middle tubular member contrary to the device recited in amended claim 55 wherein the blood vessel clip is "configured to translate through the exit aperture as the at least one blood vessel clip is moved distally through the magazine."

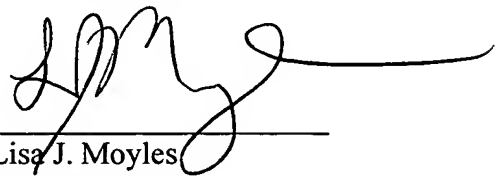
Therefore, the '379 patent does not disclose or suggest an apparatus for applying a blood vessel clip including, *inter alia*, a grip assembly, an applicator barrel, a magazine defining an exit aperture and capable of storing at least one blood vessel clip, and the blood vessel clip is "configured to translate through the exit aperture as the at least one blood vessel clip is moved distally through the magazine" as recited in amended claim 55. It is respectfully submitted that amended claim 55 is neither anticipated nor suggested by the '379 patent and the rejection of the Office Action has been overcome. Since claims 56-58 depend directly or indirectly from amended claim 55, it is respectfully submitted that the rejection of these claims has been overcome as well.

The Applicants have added new claims 59-62. Independent claim 59 recites a device having, *inter alia*, a grip assembly, an applicator barrel, and a magazine capable of storing at least one blood vessel clip where the magazine is attached to the applicator barrel and defines an exit aperture. It is respectfully submitted that the '249 patent and the '379 patent do not anticipate or suggest the device recited in claim 59. Since claims 60-62 depend directly or indirectly from claim 59, it is respectfully submitted that these claims are also not anticipated or suggested by the '249 patent or the '379 patent.

Appl. No. 10/751,579
Amdt. dated October 20, 2004
Reply to Office Action mailed December 7, 2004

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims pending in the application, namely claims 55-62, are in condition for allowance. Should the Examiner desire a telephonic interview to resolve any outstanding matters, he is sincerely invited to contact the undersigned at (203) 845-1941.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Lisa J. Moyles', written over a horizontal line.

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